

FEB 05 2019

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JULIA C. DUDLEY, CLERK
DEPUTY CLERK

CLARENCE EDWARD)
WHITAKER, on behalf of himself)
and as Administrator of the Estate)
of Shannon Marie Whitaker,)
deceased,)

Case No. 7:17-cv-00055

Plaintiff,)

v.)

HYUNDAI MOTOR COMPANY,)
et al.,)

By: Michael F. Urbanski
Chief United States District Judge

Defendants.)

ORDER

Plaintiff Clarence Edward Whitaker ("Whitaker") filed his Motion to Exclude Evidence and Argument Regarding the Installation or Existence of the After-Market Blue Tooth Radio on January 25, 2019. ECF No. 168. Defendants Hyundai Motor Company and Hyundai Motor America, Inc. ("Defendants") responded on February 1, 2019. ECF No. 184. Whitaker argues that the fact that an after-market radio was installed in the car is in and of itself irrelevant, but that Defendants will use the fact of the installation to invite the jury to speculate that the solenoid connector may have been disconnected at that time. Defendants argue they do not have to show exactly who disconnected the connector and when, but that they are entitled to show there is hard evidence that someone was working in the same area as the subject connector and that the work might have affected the connector.

The court agrees with Defendants. To prove its warranty case, Whitaker must show that an unreasonably dangerous condition existed when Mrs. Whitaker's Hyundai Santa Fe

(“the vehicle”) left Defendants’ hands. Logan v. Montgomery Ward & Co., 216 Va. 425, 428, 219 S.E.2d 685, 687 (1975). In this case, this means that Whitaker must show that the lock tabs on the plastic housing of the vehicle’s solenoid connector were disconnected when the vehicle left Defendants’ control. Evidence suggesting the plastic housing was mechanically disconnected later goes to the heart of the case; the installation of an after-market radio and microphone wire near the solenoid connector, raising the question of whether the solenoid connector could have been affected at that time, is thus relevant and admissible.

Plaintiff’s motion is **DENIED**.

It is **SO ORDERED**.

Entered: 02/05/2019

/s/ Michael F. Urbanski

Michael F. Urbanski
Chief United States District Judge